

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
DECEMBER 7, 2021**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on December 7, 2021, was called to order by President Hamilton at 11:32 a.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. *(All meetings are being held with in-person attendance following County and State COVID guidelines as well as virtually.)* President Hamilton presiding.

2. **ROLL CALL**

Present: Director Gasca, Director Hamilton, Director Mack, Director Moss *(via teleconference)*, Director Stewart.

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Engineering and CIP Program Manager Williams, Human Resources Manager Harp, Information Systems Specialist Espino.

Also Present Via Teleconference or Video Conference:

Information Technology Manager Khattab, Legal Counsel Pellman, Legal Counsel Duran-Brown.

No members of the public were present in person, via teleconference or video conference before Closed Session.

3. **ADDITIONS/DELETIONS/AMENDMENTS TO THE AGENDA (Government Code §54954.2)**

There were no amendments to the agenda.

4. **INSTRUCTIONS TO ALLOW PUBLIC COMMENT ON AGENDA ITEMS FROM THOSE ATTENDING THIS MEETING VIA TELECONFERENCE OR VIDEO CONFERENCE**

There were no members of the public in attendance; therefore, the instructions were not read aloud.

5. **ORAL/WRITTEN COMMUNICATIONS FROM THE PUBLIC OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD REGARDING CLOSED SESSION AGENDA ITEMS (Government Code § 54954.2).**

There were no comments.

The meeting adjourned to Closed Session at 11:33 a.m.

(*) - Asterisk indicates a report is attached.

6. CLOSED SESSION

- A. Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code §54956.9(d)(4) Significant Exposure to Litigation
 - * Four Cases
- B. Conference with Legal Counsel – Existing Litigation Pursuant to Government Code §54956.9(d)(1)
 - * TC Construction Company, Inc. v. Rainbow Municipal Water District, et al.
- C. Conference with Legal Counsel - Existing Litigation Pursuant to Government Code Section 54956.9(d)(1)
 - * Rainbow Municipal Water District v. Blum, Inc., et al.
- D. Conference with Legal Counsel-Anticipated Litigation (Government Code §54956.9(d)(2))
 - * One Item
- E. Appointment, Employment; Evaluation of Performance – General Manager (Government Code §54957(B)(1))

The meeting reconvened at 1:16 p.m.

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

This item was addressed under Item #12.

Time Certain: 1:00 p.m.

8. REPEAT CALL TO ORDER

The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on December 7, 2021 was called to order by President Hamilton at 1:16 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. *(All meetings are being held with in-person attendance following County and State COVID guidelines as well as virtually.)* President Hamilton presiding.

9. PLEDGE OF ALLEGIANCE

10. REPEAT ROLL CALL

Present: Director Gasca, Director Hamilton, Director Mack, Director Moss *(via teleconference)*, Director Stewart.

(*) - Asterisk indicates a report is attached.

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Engineering and CIP Program Manager Williams, Operations Manager Gutierrez, Finance Manager Largent, Human Resources Manager Harp, Water Operations Supervisor Coffey, Utility Worker Simpson, Human Resources Assistant Ramirez, Information Systems Specialist Espino.

Also Present Via Teleconference or Video Conference:

Associate Engineer Powers, Information Technology Manager Khattab, Project Manager Parra, Information Technology Manager Khattab, Engineering Technician Rubio, Construction and Maintenance Supervisor Lagunas, Project Manager Tamimi, Legal Counsel Pellman, Legal Counsel Duran-Brown, Wastewater Superintendent Zuniga, .

Thirteen members of the public were present for Open Session in person, via teleconference or video conference.

***11. BOARD OF DIRECTORS CONSIDER ADOPTING RESOLUTION NO. 21-27 RENEWING STATE OF EMERGENCY FINDINGS FOR ASSEMBLY BILL 361 (AB 361)**

Motion:

To adopt Resolution No. 21-27.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 5).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director Stewart.

12. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

Legal Counsel reported the Board met in Closed Session to discuss eight items and that there was no reportable action.

13. REPEAT ADDITIONS/DELETIONS/AMENDMENTS TO THE AGENDA (Government Code §54954.2)

There were no amendments to the agenda.

14. REPEAT INSTRUCTIONS TO ALLOW PUBLIC COMMENT ON AGENDA ITEMS FROM THOSE ATTENDING THIS MEETING VIA TELECONFERENCE OR VIDEO CONFERENCE

President Hamilton read aloud the instructions for those attending the meeting via teleconference or video conference.

15. ORAL/WRITTEN COMMUNICATIONS FROM THE PUBLIC OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD REGARDING ITEMS NOT ON THIS AGENDA (Government Code § 54954.2).

There were no comments.

(*) - Asterisk indicates a report is attached.

16. CAL FIRE AND NORTH COUNTY HELI-HYDRANT PRESENTATION

Aviation Battalion Chief Nick Brown for Cal Fire San Diego noted it was approximately one year ago today that RMWD's Operations Manager, Robert Gutierrez, reached out to him regarding the Heli-Hydrant tank located in the Orange County area to see if there was any interest in installing one of these tanks within the RMWD service area to which he replied he was very interested. He talked about how he and Mr. Gutierrez immediately started collaborating on finding a location at which a Heli-Hydrant could be installed.

Chief Brown stated although it has not been used as of yet, he wanted to express his sincere appreciation to RMWD for the efforts put forth on this project noting how much this Heli-Hydrant will do to protect this community. He pointed out not only has the relationship and bond created between Cal Fire and RMWD throughout this entire Heli-Hydrant project shed light on the County Board of Supervisors, all other water districts, and other fire agencies, it also brought everyone together to assist with the recent Aruba Fire because the relationship was created prior to the incident as opposed to after.

Chief Brown stated on behalf of Cal Fire of San Diego, thanked the Board, constituents, and everyone who made this project worthwhile because it will make a difference. He introduced Chief Kevin Mahr.

Deputy Fire Chief Kevin Mahr for North County Fire Protection District noted the relationship formed between the three agencies was unprecedented at this time and how it was all accredited to RMWD. He mentioned Mr. Gutierrez was only at RMWD for a few weeks before reaching out to him to establish a relationship and how since then Mr. Gutierrez has had incredible ideas and done nothing but bring RMWD into alignment for emergency purposes and responses throughout the mutual response areas. He stated the Heli-Hydrant was just another example of the progression the RMWD organization has shown toward protection to the communities to which it provides services, including the establishment of getting common communications with the 800mghz radio system that has made responses more efficient.

Chief Mahr thanked the Board for approving both the radio system and Heli-Hydrant budgetary items. He presented a plaque recognizing the RMWD and its Board of Directors for being proactive in supporting the installation of the first Rapid Aerial Water Support System within the San Diego County. He also presented a Challenge Coin to each of the RMWD Directors, Mr. Kennedy, and Mr. Gutierrez.

Chief Brown presented another plaque recognizing Mr. Gutierrez for his outstanding leadership and progressiveness in the installation of the first Rapid Aerial Water Supply System with San Diego County. He noted this was an example of exemplary leadership and collaboration between agencies to find ways to improve the safety and wellbeing of the communities each serve.

President Hamilton presented RMWD Challenge Coins to both Chief Brown and Chief Mahr, respectively, in the spirit of cooperation noting how appreciative the Board was to have the support of both Cal Fire San Diego and the North County Fire Protection District.

Mr. Gutierrez expressed his appreciation for the recognition as well as the bond created between the agencies which will better serve the public. He also mentioned Vallecitos Municipal Water District has expressed an interest in potentially installing a Heli-Hydrant within their service area and would like to visit RMWD's as part of their decision-making process.

Director Gasca noted his excitement when he learned Mr. Gutierrez had taken this step forward. He said staff has really laid down the challenge to the Board in that they have a responsibility to reach out to the North County Fire Protection District Board to see how the two agencies can collaborate along the same lines and do things better in every way possible. He expressed his appreciation for the work done and how it was cutting edge, which is exactly where the agencies need to be, especially in the arena of fire which impacts everyone.

17. EMPLOYEE RECOGNITIONS

A. Scott Simpson (15 Years)

Mr. Kennedy mentioned Scott Simpson started at RMWD as a laborer on the water service crew and has since moved over to the Valve Maintenance crew. He noted Mr. Simpson was also a drone pilot who has taken pictures of the pipeline exposed up in the Rainbow area which was very helpful. He presented Mr. Simpson with a plaque and check in recognition of his dedication and service.

***18. APPROVAL OF MINUTES**

A. October 26, 2021 - Regular Board Meeting

B. November 17, 2021 – Special Board Meeting

Motion:

To approve the minutes from October 26, 2021 and November 17, 2021.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion passed (summary: Ayes = 4, Noes = 0, Abstain = 1).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Abstain: Director Stewart.

***19. BOARD OF DIRECTORS' COMMENTS/REPORTS**

Directors' comments are comments by Directors concerning District business, which may be of interest to the Board. This is placed on the agenda to enable individual Board members to convey information to the Board and to the public. There is to be no discussion or action taken by the Board of Directors unless the item is noticed as part of the meeting agenda.

A. President's Report (Director Hamilton)

President Hamilton reported the recent Town Hall meeting went very well with several people in attendance both in person and virtually.

(*) - Asterisk indicates a report is attached.

B. Representative Report (Appointed Representative)

1. SDCWA

- A.** Summary of Board Meeting October 28, 2021
- B.** Summary of Board Meeting November 18, 2021

Mr. Kennedy noted as he reported previously, when the City indicated SDCWA had to provide five-year capital planning notices as well as start evaluating how to offload some of the take or pay contracts, SDCWA came back with a proposal for approximately \$1 million for three full time employees and consultants to produce this work. He added although this was a bitter pill to swallow, this sort of transparency and communications from SDCWA was vital and important for decisions to be made going forward as well as should the drought continue and the State declare mandatory cutbacks, it is likely SDCWA will go under in their take or pay contracts in their total demands because they are that close to an edge. He pointed out there will be additional meetings held to go through additional specific implements of that and bringing it forward to the General Manager's Group as well to look at how they are looking at starting to revise rate structures and such. He noted SDCWA was looking at increasing some type of fixed charge that goes per meter, assessed valuation, or something similar which is unlikely to pass. He noted there was supposed to be a Board Retreat to look at the divisiveness of SDCWA over the summer; however, it has not happened or been scheduled as of yet.

2. CSDA

Director Mack reported the legislative committee met in late October at which the introduced the gentleman who took Dillon's place. He mentioned the legislation has agreed to have a Special District Week that may also become national in the future. He noted CSDA has always awarded one recipient with the Legislator of the Year Award; however, there will now be three recipients.

Director Mack stated there was discussion regarding AB361 which RMWD already had in place. He also reported although he wanted to be considered for the CSDA Legislative Committee again, he unfortunately did not receive the email or notification until after the period for selection had passed and was very disappointed that he was not able to reapply. Discussion followed.

Mr. Kennedy announced RMWD's Transparency Certificate of Excellence accreditation renewal has been approved by CSDA. Discussion ensued regarding the requirements for renewing RMWD's District of Distinction accreditation.

Director Mack reported on the San Diego CSDA Chapter Quarterly Dinner meeting that took place in November and how discussions took place regarding certification and recertification processes being significantly impacted by the pandemic. Mr. Gutierrez stated the State shut down all testing during the pandemic, but later started offering testing online to help catch up with the certification processes; however, the processes have been significantly impacted with it taking approximately one year to obtain certifications or recertifications. Ms. Harp provided examples of how some RMWD crew members have been impacted by these changes.

3. LAFCO

Mr. Kennedy reported LAFCO released their draft Municipal Service Review (MSR) for the Fallbrook region (RMWD, FPUD, and North County Fire) for a 45-day public comment period. He stated staff has provided some comments already and will be submitting a few more. He mentioned how he testified at the LAFCO meeting on Monday indicating that the loss of agricultural users and water sales has a) damaged our economy, and b) made it difficult on the finances of everyone in the Fallbrook region. He noted he also indicated this was the main motivator for the

(*) - Asterisk indicates a report is attached.

detachment proceedings currently underway. He pointed out the draft MSR was published on the website.

4. Santa Margarita River Watershed Watermaster Steering Committee

There was no report given.

5. ACWA

Director Mack reported on the 2021 ACWA Fall Conference during which he participated in the JPIA voting process associated with updating their bylaws, discussions took place regarding cyber liability, and election results and board vacancies were mentioned.

Director Moss reported she attended the SDCWA end of pipeline session which she did not find too beneficial; however, the sessions she attended regarding acquisitions and sales were very educational and helpful.

Director Stewart stated the ACWA Conference may have been less than what was anticipated; however, it was the first in-person conference since the pandemic as well as held at a new venue. He mentioned he attended Sexual Harassment Training while at the conference.

C. Meeting, Workshop, Committee, Seminar, Etc. Reports by Directors (AB1234)

1. Board Seminar/Conference/Workshop Training Attendance Reports

This item was addressed under Item #19B5.

D. Directors Comments

Director Stewart stated he was looking forward to serving on the Board representing Division 4 and made himself available for his constituents to contact him should they need assistance with anything. He noted the areas that are part of Division 4.

E. Legal Counsel Comments

1. Attorney Report: Water Quality Update 501668-0002

Legal Counsel summarized the information contained in his written report regarding a recent Ninth Circuit decision that has raised a great deal of concern in the public water supplier community because it takes a very expansive interpretation of the Resource Conservation Recovery Act. He clarified this was a federal legislation. Discussion ensued.

Legal Counsel provided a copy of the year end summary of cases of interest to local agencies for their information. Director Moss requested a copy of the handout.

20. COMMITTEE REPORTS

A. Budget and Finance Committee

Mr. Nelson reported the committee met on November 16th to discuss several items before the Board today for consideration the committee recommended for approval. He noted pointed out Ms. Largent asked the committee for input as to how the money received from the MWD lawsuit should be utilized; therefore, the committee will be weighing in on this a later date. He concluded

(*) - Asterisk indicates a report is attached.

with pointing out Item #31 was to appoint a member of the Board to serve on this committee due to the recent resignation of Mr. Rindfleisch.

B. Communications and Customer Service Committee

Mr. Shute reported the committee met the previous week during which time they received quite a few updates on various topics. He thanked Mr. Stewart for his participation and contributions while serving on the committee as well as congratulated him for his reappointment to the Board of Directors. He encouraged ramping up recruitment for the three committee as well as congratulated RMWD with regards to the Top Workplace distinction that the District earned.

President Hamilton noted the Top 2021 Workplace award was done by the employees without management's involvement. Ms. Harp explained the survey was conducted by a nationwide research company over the summer who in turn submits their information to local newspapers to name top workplaces based on the results of their surveys in comparison to how other employers performed in each category in each region. Mr. Kennedy noted there were Zoom backgrounds and email signatures that will be circulated to employees and the Board for use.

C. Engineering and Operations Committee

Mr. Nelson reported has met twice since the Board last met. He noted on November 3rd, the committee recommended approve Item #24 before the Board today. He also pointed out at the December 1st meeting, there were no items on which the committee was asked to make a recommendation; however, there were two Request for Proposals the committee will be reviewing. He announced Phase 3 of the manhole lining project was 98% complete as well as mentioned the committee was looking forward to seeing the cathodic protection work progress.

BOARD ACTION ITEMS

***21. PRESENTATION AND ACCEPTANCE OF THE AUDIT REPORT AND FINANCIAL STATEMENTS FOR FISCAL YEAR ENDING JUNE 30, 2021**

Ms. Largent introduced Ryan Domino who gave a short presentation the audit process and results after which she will follow up with an overview of the financials.

Mr. Domino reviewed the audit responsibilities, processes, report, SAS115, as well as the Audit Communications letter. He mentioned the only thing that impacted the District was GASB 98 which has determined the name "Comprehensive Annual Financial Report" will now be titled the "Annual Comprehensive Financial Report". He said in summary, LSL was engaged to conduct a financial audit which resulted in an unmodified opinion which is the best and highest opinion that can be rendered, they came across no material weaknesses, significant deficiencies or material non-compliance, and there were no other significant audit issues or findings to communicate.

Director Stewart commended Ms. Largent for a remarkably clean and complimentary report noting the accounting system and staff has made huge progress since he previously served on the Board three years ago.

Director Gasca inquired as to how long the audit process took to complete. Ms. Largent mentioned this year was a great deal more efficient than last year noting it only took one week to complete.

(*) - Asterisk indicates a report is attached.

Director Mack asked if the audit report is something that is submitted to the State or kept on file at the District. Ms. Largent answered these are kept on file with the District, but also published on the website for public access.

Director Moss excused herself from the meeting at 2:30 p.m.

Motion:

To accept the audit report and financial statements for fiscal year ending June 30, 2021.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

Discussion went to Item #22.

Discussion returned from Item #34.

Ms. Largent shared a presentation as she reported the District had a great year financially. She pointed out going 2.5 years the District went without rate increases resulted in less than full recovery and brought the projected reserves level the Board approved amounts; however, the higher than budgeted sales last year combined with the rate increase implemented in August put the District in a conservative financial position. She noted once the audit is complete, the fund balances are allocated according to the Cash Reserve Policy as she highlighted key points provided in the presentation.

Ms. Largent pointed out the amount of savings generated with the Water Service Upgrade Project (WSUP). Director Gasca asked for clarification. Mr. Kennedy explained the savings were the result of the ABM contract cancellation and bringing the project in-house. Discussion followed.

President Hamilton asked if water sales were tracking pretty much where they were last year which is above the forecast plan. Mr. Kennedy explained this was yet to be determined due to changes in the weather.

President Hamilton inquired about the loan titled "SRF Beck". Mr. Kennedy clarified this was the title given by the State; however, it was the loan that paid for the covers on all three of the reservoir floating covers.

Discussion returned to Item #35.

***22. DISCUSSION AND POSSIBLE ACTION TO APPROVE A VARIANCE FROM ORDINANCE 21-03 TO ALLOW A LOT, LARGER THAN 0.5 ACRES, TO QUALIFY FOR CAPACITY CLASS B 3/4" METER AND APPROVE THE CAPACITY CLASS WATER USE AGREEMENT (Division 3)**

Ms. Largent explained the customer was requesting a variance to downsize to a 3/4" meter from their existing 1" meter on a 1.3 acre parcel. She noted RMWD does not usually allow for a downsize to a 3/4" meter unless they have requested variance from the Board as well as have their usage below 50 units per month. She pointed out this customer does not have their usage

(*) - Asterisk indicates a report is attached.

below the required 50 units per month; therefore, staff was requesting the variance be denied at this time and have the customer reapply when they can show they are twelve months of usage below 50 units.

President Hamilton asked whether the customer could not reapply for another twelve months. Ms. Largent stated if the customer continues their current usage for the next three months, they should be able to reapply at that time.

Motion:

To approve Option 2 - Deny the variance request.

Action: Approve, Moved by Director Gasca, Seconded by Director Stewart.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

***23. DISCUSSION AND POSSIBLE ACTION TO APPROVE A VARIANCE FROM ORDINANCE 21-03 TO ALLOW A LOT, LARGER THAN 0.5 ACRES, TO QUALIFY FOR CAPACITY CLASS B, 3/4" METER AND APPROVE THE CAPACITY CLASS WATER USE AGREEMENT (Division 5)**

Ms. Largent explained this was another request from a customer who currently has a 1.5" meter asking to be downsized to a 3/4" meter. She noted the customer is on an 11.92 acre parcel and are using zero units per month which is obviously below the required 50 units per month; therefore, staff was recommending approval of this variance.

Director Mack inquired as to whether this property has a well that attributes to their zero usage. Mr. Kennedy explained it used to be agricultural land that no longer has a grove.

Motion:

To approve Option 1 – Approve the variance to Ordinance 21-03 to allow a property larger than 0.5 acres to qualify for capacity class B and approve the New Water Service Agreement.

Action: Approve, Moved by Director Hamilton, Seconded by Director Gasca.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

***24. DISCUSSION AND POSSIBLE ACTION TO APPROVE A CONTRACT CHANGE ORDER FOR THE HELIX ENVIRONMENTAL CONTRACT TO PREPARE A PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT FOR DISTRICT FACILITIES IN THE AMOUNT OF \$65,140 AND EXTENSION OF CONTRACT TERM THROUGH JUNE 30, 2022. (DISTRICT WIDE)**

Mr. Williams confirmed this contract had expired at the end of November 2021 as well as pointed out this matter was brought to the Engineering and Operations Committee for their review. He explained when the District first started this contract with Helix Environmental to prepare the Programmatic Environmental Impact Report (PEIR), it was only for certain sections of water and sewer pipelines and how it was during the course of working with Helix that District staff decided to go ahead and encompass all District water and sewer facilities. He stated staff was in support of Option 1; however, he wanted to note that this change order does also include a credit of \$11,050 for a hydrology water quality technical report that was no longer necessary. He concluded with noting, if approved, this contract would be extended as well as encompass all facilities. Mr. Kennedy added this was an extremely important project that will help streamline the District's environmental review and compliance efforts as well as save a great deal of money in the future.

Motion:

To approve Option 1 – Appropriate an additional \$65,140 in project costs for the CIP budget for this project, authorize the General Manager to execute a Change Order to the Professional Services Agreement with Helix Environmental to provide additional scope of services in the development of the PEIR in the amount of \$65,140, extend the contract term from November 29, 2021 to June 30, 2022, and make a determination that the action identified herein does not constitute a “project” as defined by CEQA.

Action: Approve, Moved by Director Gasca, Seconded by Director Stewart.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

***25. CONSIDER AWARD OF A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$345,000 WITH CORRPRO COMPANIES, INC. FOR RAINBOW VALLEY BLVD CATHODIC PROTECTION PROJECT IN DIVISION 5**

Mr. Williams stated the District went out to bid for the cathodic protection project for which three bids were received with one from Corrpro Companies for \$345,000.00, another from Farwest Corrosion Control Company for \$524,703.14, and the last one being from Kay Construction Company in the amount of \$722,404.19.

Mr. Williams explained this project was originally started before RMWD had design and the engineer's estimates; therefore, regardless of which direction taken, staff was requesting an additional allocation of funds as mentioned in the staff report. He noted out of the three bids received, Corrpro was reviewed by staff as the lowest and responsive bidder; however, the District has received a bid protest from the second low bidder, Farwest Corrosion Control Company. He stated staff has been in contact with Legal Counsel as well as Mr. Kennedy regarding this matter.

(*) - Asterisk indicates a report is attached.

Mr. Williams pointed out there were three options before the Board for consideration. President Hamilton stated on advice of Legal Counsel after considering all facts, circumstances, and applicable law, as well as the facts and objections set forth in the bid protest filed by Farwest, it is recommended that the Board reject the low bid of Corpro.

Motion:

To approve Option 3 with the following direction – 1) Appropriate an additional \$380,000 in project costs for the CIP budget for this project; 2) Approve the Construction Agreement with Farwest Corrosion Control in the amount of \$524,703.14; 3) Authorize the General Manager to execute the Construction Contract; and 4) Make the determination that the project is categorically exempt from CEQA.

Action: Approve, Moved by Director Hamilton, Seconded by Director Stewart.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

***26. DISCUSSION AND POSSIBLE ACTION TO APPROVE A CONTRACT CHANGE ORDER FOR HELIX ENVIRONMENTAL CONTRACT TO CONDUCT CULTURAL AND TRIBAL MONITORING FOR THE RICE CANYON PIPELINE PROJECT IN THE AMOUNT OF \$115,000 (DIVISION 4 & 5)**

Mr. Kennedy stated as part of building the Rice Canyon Pipeline Project that is immediately adjacent to some very significant cultural resources of local bands and tribal monitoring of the excavations is recommended based on the potential proximity to cultural resources and anything similar. He mentioned although the Pala Tribe does not believe they will find much on the hill involved; however, some of the paths have been used both by game and people for thousands of years so there may be some potential. He pointed out most of the money involved in this contract will pay for the person from the tribes to be onsite for 100 days. He mentioned staff chose to go this route due to the way it was structured and how a Master Agreement may result in which all parties will agree that when projects are being conducted in certain areas, the tribes will be paid directly as opposed to going through consultants to ensure all tribal resources are protected.

Director Gasca asked if there would be a monitor actively on site during all the construction work. President Hamilton clarified there would be an archaeological as well as a tribal expert. Mr. Kennedy pointed out there are situations where trust is developed between the tribal person on site and those conducting the work where they may not be monitoring every move; however, this would be a matter of trust.

Director Gasca inquired as to whether there were any biological concerns associated with this project. Mr. Kennedy stated the biological concerns were handled through a CEQA amendment with one item mitigated through the process.

Mr. Williams mentioned a representative from the Rincon Band of Indians as well as Helix Environmental trained the contractor on what to do, what to look for, and how to handle the situation in the event something is found. He noted the first progress meeting was held today and how so far everything was going very well with all parties pleased. He also pointed out in this case, it was preferred and requested RMWD go through Helix Environmental on this project.

Motion:

To approve Option 1 – Approve the change order request for the Helix Environmental As-Needed Consultant Contract No. 20-03, authorize the General Manager to execute the change order on behalf of the District, and appropriate an additional \$115,000 of project costs to the Rice Canyon Pipeline Project (Project No. 600034).

Action: Approve, Moved by Director Gasca, Seconded by Director Hamilton.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

***27. DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTIONS OF NECESSITY, RESOLUTION NOS. 21-22, 21-23, 21-24, AND 21-25, AUTHORIZING THE ACQUISITION OF EASEMENTS BY EMINENT DOMAIN FROM PORTIONS OF THE PROPERTIES LOCATED AT 5555 MISSION RD, 5517-27 MISSION RD, 5256 MISSION RD, AND APN 126-230-68, BONSALL, CA 92003 IN DIVISION 2**

Mr. Williams reported Resolution No. 21-23 was no longer needed due to the matter being resolved prior to commencement of this meeting.

Mr. Williams explained staff was bringing forth the pursuit of easement acquisition through the eminent domain process for the Lift Station 1 Replacement Project Phase I. He noted the easements were all located within Division 2. He stated staff recommendation was approval of Option 1 with the striking of Resolution No. 21-23 as noted previously.

Director Stewart inquired as to whether Resolution No. 21-23 was for the property located at 5517-27 Mission Road. Mr. Williams confirmed this was correct and that RMWD has reached an agreement with this landowner and are proceeding accordingly.

Mr. Williams pointed out this is not saying RMWD was going to eminent domain, but rather continuing the negotiation process while starting a six-month clock in the event any terms cannot be agreed upon between the two parties at which time RMWD would go to eminent domain. He reported all parties were notified this public hearing would be occurring today as well as informed that this mailer would go out. He noted District staff has had communications with all parties explaining the process.

Douglas Gravelle, outside counsel for 2Go Tesoro Company which has interest in the property 5555 Mission Road. He inquired as to whether a letter he remitted to the District dated December 1, 2021 has been made part of the administrative record before he provided a much more abbreviated discussion. Mr. Kennedy confirmed this would be made part of the administrative record.

Mr. Gravelle noted one of the primary concerns, as discussed in the letter, is the fact that the post easement will encroach over and across an underground storage tank (“UST”) farm at the property. He explained if the actual pipeline situated in the center of the easement, it might just be beyond the boundaries of the UST farm, the easement itself will clearly encroach over and into the UST farm which obviously raises a number of concerns, including safety during the installation of a

pipeline. He strongly encouraged the Board to delay or defer consideration of the Resolution of Necessity (“RON”) until such further time as the parties can further their discussions. He stated although he agrees with starting the process, he also wanted to remind the Board that the Board needs to live or die by the bond that they adopt now. He stated should the Board adopt Resolution No. 21-22 today, they are going to have to justify it to the court why they adopted such with an easement that runs through a tank farm without strong substantial justification; therefore, it was for this reason he again strongly encouraged the Board to consider deferring or reconsidering this for that property at this time.

Mr. Kennedy deferred to Legal Counsel as to how the Board should move forward on this particular acquisition. Legal Counsel Duran-Brown said it was up to the Board; however, as Mr. Williams had stated, this was not something RMWD was going to go and file tomorrow which allows time to work with the engineers and look at the easement location. She stated because of how long the court process takes to get possession of the property in order to start construction of the project, it is recommended that the resolution be adopted today and then continuing to work with the property owner on concerns they may have. She explained should RMWD not be able to realign or adjust the easement in the end, it would be a matter of compensation after determining how much damage is this going to cause the property owner with appraisers analyzing such which would become part of the litigation RMWD would file.

Director Gasca inquired as to what engineers Legal Counsel was referring. Mr. Kennedy stated it would be the engineers at RMWD and Kennedy Jenks as well as those who drew this up and those who have the drawings as to where the fuel tanks are located. Mr. Williams pointed out RMWD also has a contractor on board who will have ideas and possibly methods as well; therefore, the District was in a position where evaluations can continue. Discussion ensued.

Mr. Kennedy pointed out there appears to be some room for this thing to move a little bit to the south of the tanks.

Mr. Williams asked Mr. Gravelle as to whether he was questioning the pipeline, but rather the width of the easement over the tank farm. Mr. Gravelle confirmed this was correct; however, it was possible the pipeline itself may also encroach upon the tank farm but that was too difficult to determine.

Discussion ensued.

Director Stewart stated he was sure Mr. Gravelle realizes there is a commonality of interest in that RMWD does not want to be on top of the tanks, but the District also has a need for the project to be able to move forward and for the clock to start. He pointed out the clock can be stopped at any time with ease, but right now it was a matter of creating a horizon of six months that will provide ample time to find an amicable solution. Mr. Gravelle explained the point he was making that by adopting RON today, it would be the one RMWD would need to live with if the District gets to the point where it needs to file suit and moving forward; however, District’s Counsel may have a different point of view.

President Hamilton deferred to Legal Counsel. Legal Counsel Duran-Brown stated the best information RMWD has now is that the pipeline is not to interfere with the underground storage tanks, the width of the easement may; however, this is the District’s alignment and the location has been identified as the best for this project. She noted if it turns out RMWD can adjust the alignment or work with the property owner on this matter, that’s great, but what RMWD was trying to look at was here is the alignment, here is the easement that is needed, and all of the information from engineers has said RMWD was not going to interfere with that UST farm. She explained if RMWD

was to proceed to eminent domain to acquire the easement before the Board today, it would be located in a manner that is acceptable and appropriate. She said if there are concerns after that, those would be addressed in litigation with damage claims the property owner.

President Hamilton inquired as to whether RMWD could amend the easement between now and when the clock runs out in six months. Legal Counsel Duran-Brown stated if the Board adopts a RON, the District has six months to file an eminent domain action. She added because of the timing RMWD has with its contractor, RMWD may end up filing prior to the six months, but if RMWD was to work with the property owner on a location which alleviates all their concerns, she does not see why RMWD could not enter into a settlement or other stipulated agreement. She noted this can happen in the litigation as well. She pointed out if RMWD ultimately wants to adjust the easement area on its own accord, another resolution could be brought to the Board for consideration. President Hamilton asked if this process would reset the clock. Legal Counsel Duran-Brown confirmed it would reset the clock.

Mr. Kennedy explained it was staff's intention to get the engineering details worked out in a way that satisfies the property owner's issue and come to a common agreement without pushing this matter through to the courts; however, staff also wanted to get this on the calendar.

President Hamilton expressed concern that Mr. Gravelle's comment sounded as though RMWD was locking itself in; therefore, he wanted to get a better understanding. Legal Counsel Duran-Brown stated this was essentially correct in terms of this resolution; however, that does not mean it cannot be adjusted in the future and bring it back before the Board for consideration or with an agreement with the property owner.

Motion:

To approve Option 1 as modified to remove Resolution No. 21-23 – Receive public testimony, make a determination that the action identified herein was sufficiently analyzed in the Initial Study Mitigated Negative Declaration adopted by the Board in Resolution No. 21-02 on January 26, 2021 and does not require additional analysis, adopt Resolutions of Necessity Nos. 21-22, 21-24, and 21-25, by a two-thirds vote, for the acquisition of the necessary easements by eminent domain on properties located at 5555 Mission Road, North of Hwy 76 and West of S. Mission Road (APN 126-230-68), and 5256 Mission Road, Bonsall, CA 92003.

Action: Approve, Moved by Director Mack, Seconded by Director Stewart.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

***28. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 21-28 — A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT ESTABLISHING CLASSIFICATIONS AND MONTHLY PAY RANGES FOR DISTRICT EMPLOYEES AND THE GENERAL MANAGER EFFECTIVE DECEMBER 7, 2021, THROUGH JUNE 30, 2022**

Ms. Harp explained staff was recommending an update to the approved pay grade structures. She stated in an effort to ensure the District remains optimally staffed, it was being recommended to add two new job classifications to the pay grade and ranges with the first being for a Construction and Meters Supervisor. She mentioned the existing Meters Supervisor position was not in existence until 2018; however, since that time there had two different supervisors in that position with the most recent leaving in July 2021. She stated although RMWD did conduct a search for a replacement for that position, the Construction and Maintenance Supervisor was overseeing both departments. She explained it was during this time that the District re-evaluated its long-term needs which has resulted in staff making this recommendation that a new combined construction and meters supervisor classification be created. She concluded with noting the additional headcount would be used somewhere else in the organization which would be brought to the Board for consideration in the future.

Ms. Harp talked about the second recommended classification, Senior Fleet Mechanic. She pointed out two levels current exist for this series; therefore, this would be adding a third. She noted this was a single incumbent position with the mechanic reporting directly to the Operations Manager and that although, it is not a supervisory role, it does perform a great deal of project management tasks, budgeting advisory, as well as other responsibilities that a higher-level title and pay grade would likely be more representative of the duties performed. She concluded with noting this change would not add to the District's headcount, but rather create a promotional pathway.

Mr. Kennedy mentioned this was something in recognition of two excellent RMWD employees. He stated Esa Lagunas has proven to be a very organized and professional individual as well as how the District would not operate well without Rene Del Rio who keeps every truck and other machinery in good working order. He added in the current job market, individuals like Mr. Del Rio are in very high demand and how he has been topped out in his pay grade when his performance is well above his job description.

Motion:

To approve Option 1 – Approve Resolution No. 21-28.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

(*) - Asterisk indicates a report is attached.

***29. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE NO. 21-08 AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 2.03.010.02 – COMPENSATION**

Mr. Kennedy explained the amendment is an update to modify any meetings with the General Manager be scheduled, in-person, related to a specific topic, as well as be approximately one hour or more in length.

Motion:

To approve Option 1 – Adopt Ordinance No. 21-08 amending and updated Administrative Code Section 2.03.010.02 as presented.

Action: Approve, Moved by Director Stewart, Seconded by Director Hamilton.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

***30. APPROVAL OF RESOLUTION NO. 21-26 ESTABLISHING CHECK SIGNING AUTHORITY**

Mr. Kennedy stated this was a housekeeping item related to the recent change on the Board of Directors removing Carl Rindfleisch and adding Bill Stewart as a designated check signer.

Motion:

To approve Option 1 – Approve attached Resolution No. 21-26.

Action: Approve, Moved by Director Hamilton, Seconded by Director Mack.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

31. DISCUSSION AND POSSIBLE ACTION UPDATING BOARD OF DIRECTOR MEMBERSHIP ON STANDING COMMITTEES

Mr. Kennedy stated this item was to adjust the Board Member appointments to the committees noting Director Stewart has resigned from the Communications and Customer Service Committee on November 30, 2021. He pointed out the Board may want to consider appointing Director Stewart to serve on the Budget and Finance Committee to fill the current vacancy.

Motion:

To appoint Director Stewart to the Budget and Finance Committee.

Action: Approve, Moved by Director Hamilton, Seconded by Director Gasca.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

(*) - Asterisk indicates a report is attached.

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

Director Gasca inquired as to whether Carl Rindfleisch served as District representatives on for one of the other organizations. Ms. Washburn replied he served as the alternate to the San Luis Rey Watershed Council; however, that Council has not met for quite some time.

Director Mack noted Mr. Rindfleisch also served on the Headquarters Development Study Ad-Hoc Committee. Mr. Kennedy deferred to Legal Counsel as to whether the Board would be able to appoint someone to this ad-hoc committee at this time. Legal Counsel indicated the Board may act on this matter under this item. Mr. Kennedy mentioned Director Moss had previously expressed an interest on serving on this committee.

Motion:

To appoint Director Moss to serve on the Headquarters Development Study Ad-Hoc Committee.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

***32. CONSIDER ESTABLISHING THE 2022 REGULAR BOARD MEETING SCHEDULE**

Ms. Washburn pointed out the CSDA Annual Conference was the only event that would conflict with the proposed RMWD Regular Board Meeting schedule; thus, the Board may want to consider adjusting the schedule for August 2022.

Motion:

To accept the calendar as stated with the exception of the August 23rd date being changed to August 30th.

Action: Approve, Moved by Director Hamilton, Seconded by Director Stewart.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Stewart.

Absent: Director Moss.

33. BOARD MEMBER REQUESTS FOR AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS

There were no requests.

(*) - Asterisk indicates a report is attached.

BOARD INFORMATION ITEMS

***34. CASH RESERVE POLICY 5.03.220 COMPLIANCE REPORT**

Ms. Largent stated she had a presentation to go with Item #21.

Discussion went to Item #21.

35. REDISTRICTING UPDATE

Discussion returned from Item #21.

Mr. Kennedy stated after seeking input from the both the Board and committee members, if there was no additional input or feedback provided, this will come to the Board in January for consideration.

Discussion went to Item #36.

***36. RECEIVE AND FILE INFORMATION AND FINANCIAL ITEMS**

A. General Manager Comments

1. Meetings, Conferences and Seminar Calendar

B. Operations Comments

1. Operations Report

C. Engineering Comments

1. Engineering Report
2. As-Needed Services Expenditures Summary (October)
3. As-Needed Services Expenditures Summary (November)
4. RMWD Sewer Equivalent Dwelling Units (EDU's) Status

D. Human Resource & Safety Comments

1. Human Resources Report

E. Finance Comments

1. Board Information Report
 - A. Budget vs. Actuals
 - B. Fund Balance & Developer Projections
 - C. Treasury Report
 - D. Five Year Water Purchases Demand Chart
 - E. Water Sales Summary
 - F. Check Register
 - G. Directors' Expenses Report
 - H. Credit Card Breakdown
 - I. RMWD Properties

Mr. Gutierrez reported the Water Services Upgrade Project was 84% complete.

The information and finance items were received and filed.

Discussion went to Item #37.

37. LIST OF SUGGESTED AGENDA ITEMS FOR THE NEXT REGULAR BOARD MEETING

It was noted the redistricting and mid-year budget preview should be on the next meeting agenda.

(*) - Asterisk indicates a report is attached.

Discussion went to Item #38.

38. ADJOURNMENT

The meeting was adjourned by President Hamilton to a regular meeting on January 25, 2022, at 1:00 p.m.

The meeting was adjourned at 3:34 p.m.

Hayden Hamilton, Board President

Dawn M. Washburn, Board Secretary